

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested.

Claims 1-9 are presently active in this application.

The outstanding Action presents a provisional rejection of Claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 2, 9, and 16-18 of co-pending Application Serial No. 10/523,807.

The rejection of Claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting over Claims 1, 2, 9, and 16-18 of co-pending Application Serial No. 10/523,807 is believed to be moot in view of the Terminal Disclaimer, in compliance with 37 CFR §1.321(c), filed herewith. Accordingly, withdrawal of the rejection of Claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 2, 9, and 16-18 of co-pending Application Serial No. 10/523,807 is believed to now be in order.

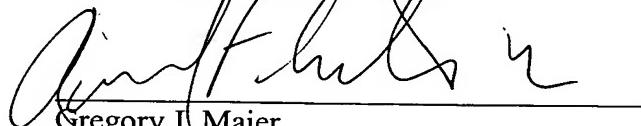
Applicants note that the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection.” *See Quad Environmental Technologies Corp v. Union Sanitary District*, 946 F.2d 870, 874, 20 USPQ2d 1392, 1394-5 (Fed. Cir. 1991).

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Reply to Office Action of 08/29/2006

As no further issues are outstanding in the present application, it is believed to be clearly in condition for formal allowance. Accordingly, an early and favorable action to that affect is therefore earnestly and respectfully requested.

Respectfully submitted,

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